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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/903,395 07/22/97 KOSLOW

E 861-001-9-1

 IM62/0802

EXAMINER

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ART UNIT	PAPER NUMBER
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1775

*17***DATE MAILED:** 08/02/99

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

<b>Office Action Summary</b>	Application No. <b>08/903,395</b>	Applicant(s) <b>Koslow et al</b>
	Examiner <b>C. Lam</b>	Group Art Unit <b>1775</b>

Responsive to communication(s) filed on May 10th and July 23rd 1999

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

Claim(s) 16-25 and 44-48 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) 16, 17, 20-23, and 44-48 is/are allowed.

Claim(s) 18, 19, 24, and 25 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## **DETAILED ACTION**

In view of the amendments filed on 5/10/99 and 7/23/99, claims 18-19 and 24-25 are not allowable as following:

### ***Claim Rejections - 35 USC § 112***

1. Claims 18 and 24 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation of "a mixture of particulate carbon (or polymer liquid absorbent) and particles of a thermoplastic binder...." is not anywhere disclosed in the original specification.
2. Applicant traverses the art rejections for claims 18-19 and 24-25, and raises the following arguments:
  - A. Korpman's absorbent powder is immobilized onto a facing material before the facing material is coated with the pressure sensitive adhesive, wherein the present invention regards to a mixture of particulate carbon and particles of thermoplastic binder.
  - B. The filler in Korpman is a pigment not an inert such as carbon black.
  - C. Korpman does not suggest a second web substrate adjacent to the fused particulate.
3. In respond to the above arguments:

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A. Korpman teaches spraying a molten pressure sensitive and plastic polymer microfibers onto the absorbent article. Korpman further teaches that carbon black filler is incorporated into the pressure sensitive adhesive microfiber compositions (col 8 L 11-15).

The fact that the particulate carbon is mixed with the pressure sensitive adhesive before the pressure sensitive adhesive is spray coated onto the facing material would not change the functionality of the product. It is the product itself which has to be new and unobvious. How the ingredients were mixed together or their order of mixing would not patentably distinguish over an article claim. In the absence of evidence that different process yields a different product.

B. Regardless of why Korpman added the carbon black, the position is maintained that carbon would inherently perform the same function as what is disclosed by the applicant.

C. Korpman clearly teaches a liquid permeable facing material (or a 2nd web substrate) which is adjacent to the absorbent core (col 4 L 47-51).

*Claim Rejections - 35 USC § 102/103*

4. Claims 18-19 and 24-25 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Korpman (USPN 5462538).

Korpman teaches claims 18-19 and 24-25, except for the particulate carbon and the pressure sensitive adhesive were mixed together before applied onto the surface of the absorbent core.

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It would have been obvious to combine the particulate carbon and the pressure sensitive adhesive eliminates an application step, therefore it would be a process expedient.

Further in view of Korpman's teaching, one would not expect any differences with having a mixture of particulate carbon and pressure sensitive adhesive versus adding the components separately.

*Allowable Subject Matter*

5. Claims 16-17, 20-23 and 44-48 are allowed.

*Conclusion*

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cathy Lam whose telephone number is (703) 308-2418.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Jones, can be reached on (703) 308-3822. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-5436.

*Cathy Lam*

Cathy Lam  
Patent examiner in Technical Center 1700  
July 28, 1999

*Deborah Jones*  
DEBORAH JONES  
SUPERVISORY PATENT EXAMINER